



# Implementation of the EU Climate Law in Bulgaria

**Legal Analysis**  
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# Analytical paper on the state-of-play regarding the national implementation of the EU Climate Law in Bulgaria

## Introduction

This analytical paper provides insights into the national implementation of the EU Climate Law in Bulgaria and, namely, how well the Bulgarian Climate Change Mitigation Act (CCMA) corresponds to the EU Climate Law (ECL). In this analysis, we offer an overview of the EU Climate Law as a legal framework for achievement of climate neutrality and of the Climate Change Mitigation Act as a framework climate law in Bulgaria. Further we provide a review of the existing shortcomings of the CCMA and suggest principles and framework conditions for the better implementation of the ECL.

### 1. The European Climate Law as the framework for achievement of climate neutrality

[The Regulation \(EU\) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations \(EC\) No 401/2009 and \(EU\) 2018/1999](#) is referred to as ‘European Climate Law’ (ECL). It marks a new level in the development of climate norms within the European Union and beyond. As stated at EC website, it sets the long-term direction of travel for meeting the 2050 climate neutrality objective through all policies, in a socially fair and cost-efficient manner, as well as a more ambitious EU 2030 target. It aims to set Europe on a responsible path to becoming climate-neutral by 2050, to create a system for monitoring progress and take further action, if needed, to provide predictability for investors and other economic actors and to ensure that the transition to climate neutrality is irreversible.

The ECL is binding in its entirety and is directly applicable in all EU Member States, as per Art. 14. Nevertheless, the relevant Union institutions and the Member States shall take the necessary measures at Union and national level, respectively, to enable the collective achievement of the climate-neutrality objective, taking into account the importance of promoting both fairness and solidarity among Member States and cost-effectiveness in achieving this objective (Art.2.2). The Regulation does not prescribe specific policies or

measures, thus allowing the member states some flexibility and taking into account the respective national regulatory framework for the reduction of GHG emissions by 2030.

Moreover, the ECL Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular Article 37 thereof which seeks to promote the integration into the policies of the Union of a high level of environmental protection and the improvement of the quality of the environment in accordance with the principle of sustainable development (Recital 6 of the Preamble of the ECL).

The ECL Regulation provides that the EU's and Member States' climate action shall aim to protect people and the planet, welfare, prosperity, the economy, health, food systems, the integrity of eco-systems and biodiversity against the threat of climate change, in the context of the United Nations 2030 agenda for sustainable development and in pursuit of the objectives of the Paris Agreement, and to maximise prosperity within the planetary boundaries and to increase resilience and reduce vulnerability of society to climate change. Such actions should be guided by the precautionary and 'polluter pays' principles established in the Treaty on the Functioning of the European Union, and take into account the 'energy efficiency first' principle of the Energy Union and the 'do no harm' principle of the European Green Deal. (Recital 9)

## **2. The Bulgarian Climate Change Mitigation Act as a framework climate law**

The Bulgarian Climate Change Mitigation Act (CCMA), one of the first in the European Union, is a framework law for regulating public relations and climate policy in Bulgaria. The law was adopted on March 11, 2014 and amended many times (last amendment published in the Official Gazette No. 84 of October 6, 2023). We will shortly list below the key elements of the CCMA as a framework law regulating societal relations in the context of the Bulgarian climate policy.

Art. 1 of the CCMA outlines the scope of the law, incl. the implementation of the state policy for mitigation of climate change; the application of the mechanisms for fulfilment of the obligations of the Republic of Bulgaria under the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement to the United Nations Framework Convention on Climate Change; the functioning of the National Green Investment Scheme; the functioning of the National system for inventories of emissions of harmful substances and greenhouse gases in the atmosphere; the implementation of the European Emissions Trading Scheme;

The second important characteristic of the CCMA is that the law transposes the European Union directives and introduces measures for the implementation of European Union regulations and decisions in the field of climate. According to para.2 of the Additional Provisions, the CCMA implements the requirements of 7 Directives, e.g., Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for trading greenhouse gas emission allowances within the Community. CCMA contains measures for the implementation of 5 decisions (two of the European Commission (EC) and three of the European Parliament and the Council) and 11 EU Regulations. Among these Regulations are the Regulation 2018/842 on the mandatory annual reductions of greenhouse gas emissions for Member States in the period 2021 - 2030, contributing on climate action in fulfilment of obligations under the Paris Agreement and amending Regulation (EU) No 525/2013 and the Regulation 2018/841 to include of greenhouse gas emissions and removals from land use, land use changes and forestry in the climate and energy framework until 2030 and to amend Regulation (EU) No. 525/2013 and Decision No. 529/2013/EU.

Further, CCMA delegates to the Council of Ministers to adopt by-laws for the implementation of individual provisions thereof. For example, according to Art. 5 of the CCMA, the Council of Ministers, on the proposal of the Minister of Environment and Water, adopts an Ordinance on the procedure and method for issuing and revising permits for greenhouse gas emissions from installations and for monitoring by the operators of installations and aviation operators, participating in the European Emissions Trading Scheme.

At a strategic level, the CCMA envisages the adoption of two documents in the field of climate policies. The integrated national plan in the field of energy and climate (INPEC) is prepared by the Minister of Energy, with the participation of the Minister of Environment and Water and other relevant ministers (Art. 8 CCMA). The first plan for the period 2021-2030, adopted on 27.02.2020 by the Council of Ministers, was developed in accordance with the provisions of Art. 3 of Regulation (EU) 2018/1999 on the management of the Energy Union and climate action within the interdepartmental working group with the participation of representatives of twelve ministries and departments.

The national strategy for the main measures of adaptation to the consequences of climate change is prepared by the Ministry of Environment and Waters, after consulting the National Expert Council on Climate Change, for a period of no less than 20 years, with the exception of the first strategy, which is prepared for the period until 2030. The strategy is adopted by the

Council of Ministers (Art. 9 CCMA). In October 2019, the current National Strategy for Adaptation to Climate Change and Action Plan until 2030 was adopted.

### 3. Review of the existing shortcomings of the CCMA

The first problem we could identify is that Art. 8-10 of the CCMA which outline the strategic documents that have to be adopted for the climate planning define very sparingly only the scope of these strategic documents and the authorities competent to adopt them. These provisions fail to specify the requirements to the purposes, content and the consultation processes. They do not spell out a national commitment to climate neutrality until 2050 as a long-term emission reduction goal.

In addition, the law does not require that climate policies will lead to achieving the national goals for 2030 or 2050. The international good practices recommend the adoption of a carbon budgeting cycle or setting decarbonization targets for the main economic sectors. At the moment the law does not guarantee that there will be no back-casting of policies or the achievement of the long-term goal. Its provisions refer to the EU 2030 goal (that will be revised soon) but does not require measures and commitments to the implementation of the long-term climate neutrality goal in line with the ECL and good climate law practices. The added value of a long-term goal defined in the law is that it creates legal certainty and could serve as a reference point for climate policy development at national level and across sectors.

The second problem with the CCMA relevant to the implementation of ECL is that it does not implement the requirements of the Regulation 2018/1999 on the governance of the Energy Union and climate action. There is no reference to this Regulation in the law, though, as mentioned above it introduces measures for another 11 Regulations on climate. In this regard, it should be mentioned that Art.11 of the Regulation sets the requirement for carrying out a multilevel dialogue on climate and energy in compliance with the national rules. The local authorities, civil society, business, investors and other stakeholders, and the general public shall be actively involved in discussions of the energy and climate policies and they could monitor progress in the implementation of these policies. Indeed, Section 1.3 of the [Integrated Energy and Climate Plan of the Republic of Bulgaria 2021-2030](#) contains a description of consultations carried out with national and EU organisations, and of their results, but that is not yet a legal requirement that should be set by the CCMA to achieve transparent, predictable and independent framework for climate policy-making.

In third place, the national climate council as defined in the law needs to be reformed in terms of its representativeness, scope of work and functions. At the moment the National Expert Council on Climate Change is an advisory body to the Minister of the Environment and Water and not an independent council providing policy and scientific inputs to the climate policy-making. Most of its members are representatives of ministries and government agencies, and only a small portion represent the science by the Bulgarian Academy of Sciences, the local authorities by the National Association of Municipalities and the civil sector by the NGOs. The format and function of the climate council does not follow the good international practice, as the members should be independent experts since their purpose is to advise the government and ministries on the development of climate policies and carbon budgeting, on the monitoring of progress and on the implementation of policies.

Finally, we need to emphasize the problem with guaranteeing of public participation in the law. Such participation is important in the decision-making process and discussion of climate policies in accordance with the law to achieve transparency and inclusiveness. In CCMA, there are specific regulations on the public participation on climate issues. At the moment, the law provides for limited level of informing the public of some technical aspects of the climate policies, such as the national GHG emissions stocktaking reports. According to Art. 62, the Minister of the Environment and Water is required to inform the public on the emission allowances, project activities with the direct participation of Bulgaria or authorised third parties and emission reporting, under the Law on Access to Public Information or Chapter II of the Environmental Act, depending on the nature of the required information. Art. 63 of the CCMA requires the Executive Director of the Executive Environment Agency shall publish annually, on the EEA website, the national reports on the GHG emissions stocktaking in the Republic of Bulgaria; annual verified reports by installation and aircraft operators and the names of installation and aircraft operators who violate the requirement to allocate sufficient allowances corresponding to their verified emissions.

#### **4. Principles for the better implementation of the ECL**

To introduce to a fuller extent the European Climate Law principles and requirements into Bulgarian law its new provisions should clear and guarantee legal certainty and predictability for all affected parties, esp. regarding such a complex issue as climate change and its effect on the life, economy and society at large. In this regard, it should be recommended to include all stakeholders into the consultation processes at the earliest stage of law-drafting. Provisions

such as the national commitment to climate neutrality, the emission reduction pathways, rules for public participation and the functioning of the National Expert Climate Council should be clearly outlined.

In the same vein, the overall legal framework could be reinforced via ordinances but also meeting the standards for clarity, transparency and legal certainty and consultation with all stakeholders. The effective implementation of the law, in its enforcement, monitoring and control, depends on the involvement of the all actors – municipalities, science, businesses, unions, and the civil society.

The readiness of our country to adopt high-quality measures in conformity with the ECL Regulation through an Act and ordinances, may be supported by an analysis of best practices globally and across the European Union; when applied, these should take into account the Bulgarian social and economic specificities, the climate conditions and the interests of all stakeholders. Such an analysis could also provide an answer to the fundamental question related to the future of the national climate law – is there a need for completely new law, or should the current CCMA be amended by incorporating the needed changes.

## 5. Some framework conditions for implementing the ECL

It is an open question whether the implementation of the ECL into the Bulgarian legislation would be better achieved by series of amendments or adoption of a completely new law. Art. 11(1) of the Bulgarian Law on Normative Acts which regulates the preparation, adoption and implementation of the normative acts states that *“A law may be repealed or replaced by a new act pertaining to the same subject matter on the express condition that the envisaged changes are numerous and significant.”* It would be advisable that any law-drafting efforts start with a thorough assessment of the articles, sections, chapters in the CCMA that might need to be amended or, conversely, what would be an ideal content and structure of a new law. At the same time an impact assessment is required within 5 years after a new law is adopted, or sooner (Art.22(2) of the Law on Normative Acts). No such assessment of CCMA has been carried out yet, even though it was adopted more than nine years ago.

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